

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DANIEL BRYAN KELLY,

Plaintiff,

v.

RICKY OWENS, et al.,

Defendants.

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CIVIL ACTION NO.: 2:05-cv-1150-T

**DEFENDANTS TERRY WILSON, WENDY ROBERSON AND AL BRADLEY'S
MOTION FOR SUMMARY JUDGMENT**

COME NOW Terry Wilson, Wendy Roberson and Al Bradley, Defendants in the above-styled cause, in their individual capacities, and pursuant to Rule 56 of the Federal Rules of Civil Procedure, move for summary judgment. Summary judgment is appropriate because the Plaintiff has failed to create a genuine issue of fact and these Defendants are entitled to judgment as a matter of law especially on the basis of qualified immunity. Defendants Wilson, Roberson and Bradley adopt and incorporate by reference the "Statement of Facts" contained in Co-Defendant Ricky Owens' "Motion for Summary Judgment" as well as "Defendants' Joint Evidentiary Submissions" both filed contemporaneously herewith under separate cover. In support of this motion, Defendants Wilson, Roberson and Bradley offer the documents described above as well as their own memorandum brief also contemporaneously filed under separate cover.

Grounds for Summary Judgment

1. Defendants Wilson, Roberson and Bradley acted within their discretionary authority.

2. Neither Wilson, Roberson nor Bradley violated the Plaintiff's federally protected rights.
3. Neither Wilson, Roberson nor Bradley were deliberately indifferent to the Plaintiff's medical needs.
4. Defendants Wilson, Bradley and Roberson did not subject the Plaintiff to unlawful jail conditions.
5. The Plaintiff's conditions of confinement did not amount to punishment.
6. Defendants Wilson, Roberson and Bradley were not deliberately indifferent to the Plaintiff's conditions of confinement.
7. The Plaintiff has failed to create a triable issue with respect to his alleged assault by Defendant Al Bradley.
8. Defendants Wilson and Roberson did not fail to intervene and protect the Plaintiff.
9. Plaintiff's "failure to train" claim against Defendants Wilson and Roberson is due to be stricken on summary judgment.
10. No clearly established law provided Defendants with "fair warning" that his conduct violated the Plaintiff's federally protected rights.

Respectfully submitted this 30th day of November, 2007.

s/Kristi A. McDonald
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CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of November, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Richard J. Stockham, III**, and **Gary L. Willford, Jr.**

s/Kristi A. McDonald
OF COUNSEL